REMARKS/ARGUMENTS

The rejections presented in the Office Action dated March 21, 2006 (hereinafter Office Action) have been considered. Claims 46-90 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Claims 46-90 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,085,976 to *Sehr* (hereinafter "Sehr") in view of U.S. Patent No. 6,314,408 to *Salas et al.* (hereinafter "Salas").

Three criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or combination of references, must teach or suggest all the claim limitations. MPEP § 2142. Applicant respectfully disagrees with the rejection because the prior art fails to disclose all the claim limitations, there is no motivation to combine the references as proposed by the Examiner, and there would be no expectation of that any such combination would be successful.

Regarding the third criterion for *prima facie* obviousness, Sehr and Salas do not teach or suggest all of the limitations of Applicants' claims. For example, regarding claim 46, the Examiner states that Sehr teaches "receiving a download request from the network service," and points to Sehr, column 19, lines 3-33 as teaching this element. At column 19, lines 3-33, Sehr discusses read/write operations of a passenger card. The passenger card is not a network service. Thus, at the section indicated by the Examiner, the asserted reference does not teach receiving a download request from a network service. Sehr does not teach or suggest this limitation of Applicants' claim 36. The secondary reference, Salas, also fails to teach or suggest this limitation.

The Examiner states that Sehr teaches "creating a content rights file based on the access information" included in the download request. However Sehr does not teach creating a content rights file based on access information received in a download request

10

from the network service. The Examiner again points to column 19, lines 3-33 as teaching this limitation. However, as previously stated this section describes read/write operations of Sehr's passenger card, and does not describe download requests received from a network service. Sehr does not teach or suggest this limitation of Applicants' claim 46. Salas also fails to teach or suggest this limitation.

The Examiner states that at column 41, lines 11-35, Sehr teaches "delivering to the network service an address of the content rights file for use by the mobile terminal." At the referenced section, Sehr does not teach or suggest that an address of the content rights file is delivered to the network service. There is no mention at this section of any use of an address of a content rights file. Sehr does not teach or suggest delivering an address of the content rights file to the network service for use by the mobile terminal. Salas likewise fails to teach or suggest this limitation.

The Examiner states that Sehr fails to describe the following features:

determining if the transaction request includes the content rights file address;

if the transaction request includes the content rights file address:

retrieving the content rights file using the content rights file address;

authorizing a download transaction associated with a transaction identifier based on the content rights file; and

downloading, for the download server to the mobile user terminal, the targeted content identified in the transaction request; and

if the transaction request does not include the content rights file address and includes the transaction identifier:

determining if the transaction is valid based on the transaction identifier;

authorizing the download transaction if the transaction is valid; and

downloading, from the download server to the mobile user terminal, the targeted content identified in the transaction request.

The Examiner alleges that Salas teaches all of the above features of claim 46. The Examiner points to column 6, lines 1-17, 10-24, 50-67, and column 12, lines 51-61 of Salas as teaching all of these features.

11

Salas describes a system for providing a collaborative work environment via a network. (column 2, lines 34-36). A server stores information relating to a project or a set of projects in a database. (column 2, lines 43-45). A client workstation uses data received from the server to create and display to the user of a client workstation a private, secure collection of HTML pages that provide a virtual workroom for members of a team, which is referred to as an "eRoom." At column 6, lines 1-17, Salas describes how users gain access to an eRoom via hyperlink or direct entry of URL into the browser. If the URL is an eRoom, the server returns a wrapper file that includes an identification of an object to be displayed. The object ID is used to look up the object in the database. At column 6, lines 10-24 Salas describes a "page builder" application which may be provided as an Active X control or COM object. At column 6, lines 50-67, Salas provides code for a template for eRoom specific information. At column 12, lines 51-61, Salas describes that users' access rights are checked to ensure that the user possess "create" or "modification" rights. The passages referenced by the Examiner are devoid of any description that relates to the conditional use of a content rights file address or transaction identifier to authorize a download transaction.

Regarding the first criterion for prima facie obviousness, no motivation to combine these reference teachings can be found in Sehr and/or Salas. It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown, and that this evidence be "clear and particular." *In re Dembiczak*, 50 USPQ2d 1614 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of references, standing alone, are not evidence. *Id.*

The Examiner states that column 3, lines 37-40 of Sehr provide the necessary motivation to combine the references. At this section, Sehr states:

> "The invention further includes a method for using a cryptographic scheme to authenticate the cardholder or system information and to guarantee a secure information exchange."

This statement describes a cryptographic scheme for authenticating the cardholder or system information. Sehr's mere mention of the use of cryptography does not supply the

12

requisite motivation to combine or modify the references to support *prima facie* obviousness. The use of cryptography solves a different problem than the problem addressed by the present invention.

Applicants respectfully assert that the teachings of Sehr and Salas would provide insufficient guidance for one of ordinary skill in the art having these references before him/her to successfully make the combination or modification suggested by the Examiner. Applicants respectfully assert that the Examiner's conclusion of obviousness is, instead, based on improper hindsight reasoning using knowledge gleaned only from Applicants' disclosure.

Independent claims 64, 76, and 80 were rejected under a similar rationale as that used in the rejection of claim 46. Applicant reasserts the above arguments with respect to the rejections of claims 64, 76, and 80.

For at least the reasons presented above, independent claims 46, 64, 76, and 80 are patentable over the combination of Sehr and Salas. Dependent Claims 47-63, 65-75, 77-79, and 81-90, which are dependent from independent Claims 46, 64, 76, or 80, were also rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Sehr and Salas. While Applicants do not acquiesce with any particular rejections to these dependent claims, it is believed that these rejections are now moot in view of the remarks made in connection with independent claims 46, 64, 76, and 80. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. "If an independent claim is nonobvious under 35 U.S.C. §103, then any claim depending therefrom is nonobvious." M.P.E.P. §2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent claims 47-63, 65-75, 77-79, and 81-90 are also allowable over the combination of Sehr and Salas.

It is to be understood that Applicants do not acquiesce to Examiner's characterization of the asserted art or Applicants' claimed subject matter, nor of the Examiner's application of the asserted art or combinations thereof to Applicants' claimed subject matter. Moreover, Applicants do not acquiesce to the Examiner's statements or

13

conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicants' invention, officially noticed facts, and the like. Applicants reserve the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (NOKM.012PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact her to discuss any issues related to this case.

Respectfully submitted,

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14